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असाधारण
EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (II)
PART II—Section 3—Sub-section (II)

प्राधिकार से प्रकाशित
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नई दिल्ली, सोमवार, नवम्बर 28, 1994/अग्रहायण 7, 1916
NEW DELHI, MONDAY, NOVEMBER 28, 1994/AGRAHAYANA 7, 1916

गृह मंत्रालय

अधिसूचना

नई दिल्ली, 28 नवम्बर, 1994

का.ग्रा. 850 (अ):—केन्द्रीय सरकार ने विधिविरुद्ध क्रियाकलाप (निवारण) अधिनियम, 1967 (1967 का 37) की धारा 3 को उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय कि अधिसूचना सं.का.ग्रा. 375(अ), तारीख 14 मई, 1994 द्वारा लिबरेशन टाइगर्स आफ तमिल ईलम (जिसे इसमें इसके पश्चात् एन.टी.टी.ई. कहा गया है) की निम्नलिखित बातों को ध्यान में रखते हुए विधिविरुद्ध के रूप में एक संगम घोषित किया था जो दस्त: थोर्लका में आधारित है और उसके त्रुमवर्द्ध, समर्थक और एजेंट भारत की भूमि पर विद्यमान हैं:—

- (1) एल टी टी ई के सभी तमिलों के लिए पृथक स्वदेश के उद्देश्य से भारत की प्रभुता और राज्य क्षेत्रीय अखंडता की आशंका है और इस प्रकार यह उद्देश्य विधिविरुद्ध क्रियाकलाप की परिधि में आता है;

- (2) एल टी टी ई में तमिलनाडु में तमिल नेशनल रिट्रीवल ट्रूथ (टी एन आर टी) और तमिल पसाराई (टी पी) नामक दो पृथक्वादी संगठनों का सृजन किया है तथा अपने सदस्यों को भारत में विधिविरुद्ध क्रियाकलाप करने के लिए प्रोत्साहित किया है और सहायता प्रदान की है;

- (3) भारत में कतिपय व्यक्तियों तथा संगठनों ने अपने विधिविरुद्ध क्रियाकलापों और भारतीय दंड की धारा 153ख के अधीन दंडनीय क्रियाकलापों के लिए एल टी टी ई से प्रेरणा तथा प्रोत्साहन प्राप्त किया है;

- (4) वस्तुतः एल टी टी ई सभी तमिलों के लिए एक पृथक स्वदेश प्राप्त करने के अपने उद्देश्य को अग्रसर करने के लिए भारत की प्रभुता और राज्य क्षेत्रीय अखंडता को विचिन्तन करने के लिए आशयित क्रियाकलापों में लिप्त रहा है;

और केन्द्रीय सरकार, उक्त अधिनियम की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, भारत सरकार के गृह मंत्रालय की अधिसूचना सं.का.ग्रा. 426(अ), तारीख 1 जून, 1994 द्वारा विधिविरुद्ध क्रियाकलाप

(निवारण) अधिकरण का गठन किया था (जिसे इसमें इसके पश्चात् उक्त अधिकरण कहा गया है) जिसमें दिल्ली उच्च न्यायालय के न्यायाधीश, न्यायमूर्ति श्री देविंदर गुप्ता होंगे;

और केन्द्रीय सरकार ने पूर्वोक्त अधिनियम की धारा 4 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, उक्त अधिसूचना, तारीख 13 जून, 1994 को उक्त अधिकरण को यह न्यायनिर्णयन करने के प्रयोजन के लिए निर्देशित की थी कि क्या उक्त संगम को विधिविरुद्ध घोषित किए जाने का पर्याप्त कारण था, अथवा नहीं,

और, उक्त अधिकरण ने, उक्त अधिनियम की धारा 4 की उपधारा (3) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, तारीख 11 नवम्बर, 1994 को एक आदेश (जिसे इसमें इसके पश्चात् उक्त आदेश कहा गया है) किया था जिसमें अधिसूचना सं. का. मा. 375(अ), तारीख 14 मई, 1994 में की गई घोषणा की पुष्टि की गई थी.

अतः अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 4 की उपधारा (4) के अनुमरण में उक्त अधिकरण का उक्त आदेश प्रकाशित करती है,

—अंग्रेजी पाठ के अनुसार—

नवम्बर 11, 1994
ह. /—
(देविंदर गुप्ता, जे.)
अधिकरण
[सं. आई-11034/9/94-आईएससीआई(ए)]
सी. फुसांग, संयुक्त सचिव
नई दिल्ली,
दिनांक 28 नवम्बर, 1994

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 28th November, 1994

S.O. 850(E).—Whereas the Central Government in exercise of the powers conferred by sub-section (1) of section 3 of the Unlawful Activities (Prevention) Act, 1967 (37 of 1967), declared vide notification of the Government of India in the Ministry of Home Affairs No. S.O. 375(E), dated 14th May, 1994, the Liberation Tigers of Tamil Eelam (hereinafter referred to as LTTE) an association actually based in Sri Lanka and having sympathisers, supporters and agents on Indian soil as unlawful in view of the following :—

- (i) LTTE's objective for a separate homeland for all Tamils threatens the sovereignty and territorial integrity of India and that falls within the ambit of an unlawful activity;
- (ii) LTTE has created the Tamil National Re-trial Troops (INRT) and Tamil Paasarai (TP), to secessionist organisations in Tamil

Nadu and encouraged and aided its members to undertake unlawful activities in India;

- (iii) Certain persons and organisations in India draw inspiration and encouragement from LTTE for their unlawful activities as well as activities punishable under section 153B of the Indian Penal Code;
- (iv) LTTE has indeed indulged in activities intended to disrupt the sovereignty and territorial integrity of India in furtherance of its objective of achieving a separate homeland for all Tamils;

And, whereas, the Central Government in exercise of the powers, conferred by sub-section (1) of section 5 of the said Act, vide notification of the Government of India in the Ministry of Home Affairs No. S.O. 426(E), dated the 1st June, 1994, constituted the Unlawful Activities (Prevention) Tribunal (hereinafter referred to as the said Tribunal), consisting of Shri Justice Devnider Gupta, Judge of the Delhi High Court;

And, whereas, the Central Government in exercise of the powers, conferred by sub-section (1) of section 4 of the aforesaid Act, referred the said notification to the said Tribunal on the 13th day of June, 1994 for the purpose of adjudicating whether or not there was sufficient cause for declaring the said association as unlawful;

And, whereas, the said Tribunal, in exercise of the powers conferred by sub-section (3) of section 4 of the said Act made an order (hereinafter referred to as the said Order) on the 11th day of November, 1994, confirming the declaration made in the notification No. S.O. 375(E), dated the 14th May, 1994;

Now, therefore, in pursuance to sub-section (4) of the said Act, the Central Government hereby publishes the said order of the said Tribunal namely :—

BEFORE THE UNLAWFUL ACTIVITIES (PREVENTION) TRIBUNAL

Constituted vide Notification No. S.O. 375(E) issued by the Ministry of Home Affairs, Government of India, New Delhi dated 14th May, 1994 in exercise of powers conferred by Sub-section (1) of Section 5 of the Unlawful Activities (Prevention) Act 1967) (in short 'the Act').

A reference was received from the Central Government which is to be answered as to whether there was sufficient cause with the Central Government for declaring the Liberation Tigers Tamil Eelam (for short LTTE) to be an "unlawful association" in exercise of powers under the provisions of the Unlawful Activities (Prevention) Act, 1967 (Central Act 37 of 1967) (in short 'the Act').

Notification published in the Gazette of India (Extraordinary) Part II, Section 3, Sub-section (ii) on 14-5-1994 issued by the Central Government in

exercise of the powers conferred by sub-section (1) of Section 3 of the Act declared the Liberation Tigers of Tamil Eelam to be an unlawful association. The Notification further states that the same shall have effect from the date of its publication in the Official Gazette, subject to any order that may be made under Section 4 of the Act.

After describing the broad features of LTTE and its activities, the Central Government appears to have formed the opinion of LTTE to be an unlawful association, on the basis of information which is also disclosed in the notification in the following words :

- “(a) LTTE is trying to infiltrate its cadres, supported with sophisticated arms and ammunition and with logistic support, in Tamil Nadu;
- (b) LTTE is trying to establish safe houses in Tamil Nadu for providing sanctuaries to its cadres already operating in the State, and those infiltrating into the State;
- (c) LTTE is providing moral and material support to Tamil National Retrieval Troops and Tamil Passarai, both Secessionist organisations operating in Tamil Nadu for carrying out their disruptive and terrorist activities aimed at undermining India's sovereignty and territorial integrity;
- (d) LTTE has established strong presence to secure forced release of its cadres from State's custody in Tamil Nadu;
- (e) in November, 1993 and in January, 1994, the supporters of LTTE has published posters inspiring the Tamil youth to work for a separate homeland for all Tamils;
- (f) LTTE has held out threats of elimination of witnesses in the Rajiv Gandhi assassination case and officers of Intelligence and Investigation agencies of India;
- (g) LTTE, through articles published in its journal “Erimalai” in November, 1993 and January, 1994 and through other propaganda activities, is continuously maligning the Government of India with the object of arousing separatist Tamil sentiments.”

On receipt of the reference, on 12th July, 1994 notices were directed to be issued to LTTE to show cause as to why the Association be not declared as unlawful. The notice was made returnable for 26th August, 1994 and was directed to be served by publication in the Indian Express and The Hindu (Tamil Nadu Edition) & in a daily issue of any newspaper published in Tamil language in Tamil Nadu, since it was stated that no address of the Association in India was available. Notice was also directed to be published in two leading newspapers of Sri Lanka, either in “Island” or “Virakesari” or “Daily News” or “Thinakara”. It was also directed to be published in the leading newspaper “Times” of United Kingdom. In addition notice was also directed to be served by affixation on some conspicuous part of the office, if

any, of the Association and by serving, if possible, on the principal office bearers of the LTTE Association by registered post or otherwise.

Notice was published in the English edition of Daily News and Tamil edition of Thinakaran in Sri Lanka on 30th July, 1994, in English edition of Indian Express and the Hindu and the Tamil edition of Daily Thantai on 23rd July, 1994 in Tamil Nadu. In the Times of United Kingdom it was published 11th August 1994. Notice sent under registered covers on three addresses at London (U.K.) and on the address of Head-quarters of LTTE, Jaffna University Campus, Jaffna (Sri Lanka) were received back with the report that the addresses were not available on the given addresses.

In pursuance to the notices, none appeared on behalf of LTTE during the course of proceedings till date. However, a communication dated 24th July, 1994, was received by post from Mr. Velupillai Prabhakaran for and on behalf of LTTE, whose address was given as Jaffna University Campus, Jaffna (Sri Lanka). From the contents of the communication received it can safely be inferred that LTTE and its office bearers are fully aware of the publication of notification and of these proceedings. It can also be safely inferred that LTTE has no intention to partake in these proceedings.

After publication of notices, hearing was fixed for 12th September, 1994. Since none appeared to oppose, time was allowed to the Union of India and the State of Tamil Nadu to lead their respective evidence on affidavits, in support of the reference.

On behalf of Union of India, Mr. C. Phunsog, Joint Secretary in the Ministry of Home Affairs, filed his affidavit sworn on 26th September, 1994. To his affidavit are also annexed number of documents. On behalf of the State of Tamil Nadu, affidavit of Mr. S. Salvarathinam, Superintendent of Police, ‘Q’ Branch, C.I.D., Madras sworn on 27-9-1994 along with documents appended thereto has been filed. No more evidence was sought to be led.

I have heard Mr. E. X. Joseph, Sr. Advocate, appearing with Ms. Barkha Babbar, Advocate, for the Central Government and Mr. M. N. Krishnamani, Sr. Advocate, appearing with Mr. R. V. Mohan and Mr. M. Mariaputham, Advocates, for the State of Tamil Nadu.

On an earlier occasion also the Central Government had issued a similar notification on 14-5-1992, which was published in the Gazette of India Extraordinary in Part II of Sub-Section (ii) of Section 3 declaring LTTE to be an unlawful association. On a reference being made for the opinion of the unlawful Activities (Prevention) Tribunal, constituted vide notification dated 10th June, 1992, the Tribunal sent its report dated 4-11-1992 to the effect that the Central Government had shown sufficient cause for declaring LTTE as an unlawful association under the Act. Report further states that such declaration was necessitated in the national interest. This report of the Tribunal was duly published in the official gazette.

In view of the fact that in the two affidavits filed on behalf of the Central Government and the State of Tamil Nadu number of facts and circumstances have been reiterated pertaining to the period prior to the issuance of earlier notification dated 14-5-1992, for which the Tribunal had rendered its opinion, instead of making reference to such circumstances, existing prior to 14-5-1992, for the purpose of forming an opinion on fresh notification dated 14-5-94 only such other facts and circumstances deserves to be considered, which were taken note of by the Central Government at the time of formulating its opinion that LTTE was still indulging in such activities which necessitated the Central Government in again declaring it to be an unlawful association or in other words in extending the ban for a further period. The constitution of LTTE in detail, its activities, prior to 14-5-1992, as such, are not being referred to or discussed in detail, since the same form part of the earlier report, except by making a brief reference, wherever necessary.

In the affidavit filed by the Central Government, it is stated that LTTE was originally formed in 1974 as Liberation Tigers and it took its present name in 1976. LTTE declared its ultimate objective "Total liberation of its homeland and the establishment of an independent sovereign socialist State of Tamil Eelam". In the course of its growth, LTTE has been able to carve out a well knit infra-structure and has methodically built up an organisational structure, which has sustained armed struggle against the Sri Lankan army and also operates from the territory of India. It is broadly divided into political, military, medical and intelligence wings, each having a set hierarchy. It is alleged that the overall incharge of LTTE is Velupillai Prabhakaran. It is alleged that the political front of LTTE is the "Peoples Front of Liberation Tigers" (for short 'PFLT'). In earlier part of 1989 LTTE started using Tamil Nadu as an area of its operation. During 1989-1990 its cadres started infiltrating into the State of Tamil Nadu under the guise of refugees. As many as 50-odd landing places in the coastal areas of Tanjavur, Pudukkottai and Ramana-thapuram districts were used for infiltrating into the State. Sea and land routes were also converted, by the LTTE, into prolific smuggling channels and supply lines. It also set up an effective net work of radio/W.T. communication between Sri Lanka and Tamil Nadu and within the State of Tamil Nadu.

After LTTE had established its network, it had trained and groomed Tamil National Retrieval Troops, consisting of youths from Tamil Nadu with objectives seeking secession of Tamil Nadu and within India union primarily with an objective of creating Tamil Eelam of all Tamil speaking people. It was under the leadership of one Ravi @ Ravichandran of Aruppukkottai, who left Tamil Nadu clandestinely during 1990 by boat to Jaffna and under went training with the LTTE in handling fire arms and explosives, that LTTE ultimately formed the group called Tamil National Retrieval Troops (for short 'TNRT'). After making reference to the activities of LTTE, TNRT and other such like groups for the period prior to 14-5-1992, it is stated in the affidavit of Mr. C. Phunsog that there is no indication that

LTTE has revoked its constitution or, in any manner, retracted from its avowed objective of creating a Tamil Eelam for Tamils including the territories of northern portion of Sri Lanka and the State of Tamil Nadu. After narrating circumstances, broad instances have been narrated in the affidavit supported with numerous documents.

Deponent, Shri C. Phunsog, in his affidavit has placed reliance upon such of the information which has been made available to the Central Government by the State of Tamil Nadu which in fact finds elaborated in the affidavit of Shri S. Selvarathinam. There is no other additional fact or circumstance brought on record in the affidavit filed on behalf of the Central Government except that, which is relied upon by the State of Tamil Nadu. As a matter of fact it was on the request of State of Tamil Nadu, in pursuance to the resolution adopted by the Tamil Nadu Legislative Assembly on 20-4-1994 that, on the basis of material supplied by the State of Tamil Nadu, the notification in question was issued by the Central Government. Circumstances as disclosed in the affidavit of Shri S. Selvarathinam are being dealt with, which were before the Central Government at the time of forming the opinion.

It is alleged that despite LTTE having been declared as unlawful association by virtue of notification dated 14-5-1992, its sympathizers, both individuals as also numerous organisations, continued to propagate support for LTTE through public utterances, distribution of posters and through publication. Names of the individuals have also been disclosed in the affidavit such as Perunchithiranan, Pozhilan, Pazha Nedumaran, Nagimugan, Dr. S. Ramadoss etc. The organisations which have been disclosed to be the sympathizers are Thamizhar Passarai Thamilar Desiya Ivakkam (in short 'TDI'), Viduthalai Kuvileal Pattali Makkal Katchi (in short 'PMK'), Tamil Nadu Liberation Army etc.

It is alleged that organisation PMK on 10-9-1992 and 11-9-1992 held conferences in Madras and also took out procession on 12-9-1992 in which portraits of LTTE leader Prabhakaran were carried. During conference Dr. Ramadoss, founder leader of PMK is stated to have made a speech making utterances such like :

"There are question from some quarters whether P. M. K. should support LTTE. We are certain to see the birth of Tamil Eelam which is the aim of Prabhakaran, who is in the battle filed as the Tamil guardian of all Tamils in the world. We should get right of self-determination just as Tamil Eelam becomes a reality. I wish to state that if we do not get this right, we will launch a might struggle to secure independent Tamil nation like Independent Tamil Eelam We have convened the conference for the purpose of struggle. We support LTTE who are fighting for Tamils. We will not retreat and we will support LTTE whatever the obstacles."

For the aforementioned instance, it is stated that a case for offence under Section 120-B, 124-A, 153-A(a)(b), 505(1)(b) of the Indian Penal Code and Section 13(1) & (2) of the Act was registered in Madras City 'X' Station vide CrI. No. 1899/92 and 12 persons, including Dr. Ramadoss, were arrested. Copy of the shorthand report of the speech of Dr. Ramadoss is also enclosed to the affidavit as Annexure VII.

Individual Pazha Nedumaran of Thamixhar Desiya Iyakkam organisation is stated to have written a bio-graphical account of LTTE leader Kittu under the title "Kaviya Nayagan Kittu" (Epic Here Kittu). Extracts have been quoted from the book and are stated to be detrimental to the sovereignty and integrity of the country. It is alleged that 298 copies of book were seized when they were about to be sent overseas by air cargo for which in Police Station Meenabakkam case CrI. No. 1988/93 for offence under Section 10 of the Act was registered. Extract from the book which has been quoted is :

"India feels that if a revolutionary armed struggle explodes in Sri Lanka and Tamil Eelam emerges, then the regional movements in India might intensify their separatist activities leading to the ultimate disintegration of India ... so being afraid of the danger posed by the victory of the Tamil Eelam movement, India is resolved to see that the movement should not be allowed to succeed and that the Liberation Tigers and its leadership should be crushed. If a movement is to be annihilated, its strong leadership should be crushed. That is, Prabhakaran and his lieutenants should be liquidated. Further, India is of the view that the intervention of European countries should not be allowed lest the authority and influence of India should be diminished India acted like a dog in the manger. It adopted a policy according to which no peace treaty should come out without India's role of participation in it. This ultimately resulted in loss of previous lives. History will never forgive the barbarous attitude of the Indian Government."

Reference is made in the affidavit to a front organisation of Tamil Nadu Marxist Leninist Party, namely, the Revolutionary Youth Front, which is stated to have held a public meeting on 14-1-1994 and to the speech made in the meeting by one V. Ponnusamy in support of LTTE and inviting Tamil Nadu youth to join Prabhakaran to support the ideals and objects of LTTE. He is stated to have concluded the speech by saying that innumerable Kittus and Thanus (Rajiv Gandhi's assassin) would spring forth and if necessary Rajiv Gandhi should prepare themselves to face the challenge. Copy of the shorthand report in Tamil, of the speech has also been enclosed to the affidavit as Annexure IX.

The wall posters, both printed and handwritten with slogans hailing and paying homage to Kittu are stated to have been seized on 16-1-1994 by Madurai Police from one Tamil Pillan, Deputy Secretary, Dravidar Kazhagam of District Madurai and from one Ravi son of Shanmugham of Pethaniapuram, Madurai for which CrI. case No. 115/94 of Police Station Thallakulam is stated to have been registered for offence under Sections 153-B, 124-A of the Indian Penal Code and Section 13(1)(B) of the Act. During investigation of the case, working partner of press Ravi was also arrested on 25-1-1994 which led to registration of another case under Section 153-B of the Indian Penal Code.

The organisation Tamil Nadu Liberation Army is stated to be a secessionist group drawing inspiration and encouragement from LTTE and the affidavit states that this organisation was responsible for the following Bomb Blasts :

- "I. On 24-5-1992 a bomb was exploded in the TV Relay Centre, Kumbakonam.
- II. A bomb was exploded on a Railway Bridge near Kallagam on 24-10-1992.
- III. A Gandhi statue at Villupuram was blasted on 25-1-1993.
- IV. The Congress-I Office was blasted on 25-1-1993 at Kodavassal.
- V. A bomb was exploded in the Congress-I Office at Athur (Salem) on 25-1-1993.
- VI. A Police Station at Kullanchavadi was attached with bombs on 18-11-1993 resulting in the death of a Constable."

Details of each incident are given in separate Annexure X and it is stated that from the scene of explosion, posters and hand-bills were found which generally urge for revocation of ban on LTTE, recognition of LTTE cadres as freedom fighters and hailing Thanu (Rajiv Gandhi's assassin) etc.

Annexure XVII with its sub-annexures are the extracts from various speeches made in the meetings of some of the organisations, namely, Tamilar Desiya Iyakkam, Tamil Desa Podu Udaimai Katchi, PMK, Tamil Desa Thannurimai Munnani as also various articles published in some of the magazines etc. 'INI' and 'DRAVINDAN'.

The affidavit also contains various details of other cases of disruptive activities carried out from time to time by various organisations and individuals. In para 12 of the affidavit, reference is made to a case CrI. No. 1/93 in Nagapattinam, 'Q' Branch, CID for offence under Sections 3(3), 5 & 6 of TADA Act, 1987 and Section 25 (1-B) read with Section 3 of the Arms Act, 1959 on seizure of 49 parcels containing 4500 hand grenade shells and 41.314 Kgs.

release switch components from a house in Sangamangalam in Nagapattinam Quid-e-Milleth district. On registration of the case one Kumar @ Sooriyakumar @ Soori @ S.P., Durai @ Mohan, Dr. Gopalakrishnan and Arunachalam of LTTE cadre are alleged to have been arrested. The enquiry revealed that hand grenade shells and material seized in this case had been manufactured in and around Coimbatore and were transported to Sangamangalam in June 1991 to cater to the needs of LTTE in Jaffna. It is further stated that the material could not be transferred in view of tight security. However, after the death of LTTE leader Kittu @ Krishnakumar on boat m.v. YAHATA on 16-1-1993, LTTE wanted to wreak vengeance. LTTE cadre Sooriyakumar @ Kumar, planned to utilise the materials for launching an armed revolution with the help of LTTE who would infiltrate into Tamil Nadu to overawe the State and Central Government against banning the LTTE and the killing of LTTE leader Kittu @ Krishnakumar. Before the plan could be executed, the accused were arrested and the materials were recovered.

For another incident of 19-20 February, 1993 on the complaint of one Palanichamy, case CrI. No. 146/93 for offence under Section 25(1)(a) of Arms Act, Section 9 (B)(1)(b) of Indian Explosives Act and Sections 5 & 6 of TADA Act, 1987 and Section 307 of the Indian Penal Code was registered in Police Station Nagapattinam.

For another incident of 22nd February, 1993 a case was registered and on completion of investigation charge sheet was laid before Designated Court II, Madras on 19-3-1993. Copy of charge sheet has also been placed on record and the trial is stated to be over. Details of the incident are also narrated in the affidavit.

Another instance of April, 1993 has been cited for which case CrI. No. 360/93 under Sections 302, 307 and 225 of the Indian Penal Code read with Section 25(1)(B) Arms Act and Section 9(B)(1)(b) of Explosive Substances Act was registered in Padelam police station. The incident as narrated in paragraph 14 states :

"Kiruban, Ravi, Chandran and Victor (LTTE cadres) who were concerned in Thanjavur district Sethubhavachatram P. S. Cr. No. 180/90 under Sections 147, 148, 25 of Arms Act, Section 20 of Passport Act and Section 3 of Wireless Act, were taken from Central Prison, at about 8 P.M. on 29-4-93 for being produced before the Judicial Magistrate, Pattukottai on 30-4-1993. Of these accused, Kiruban is also involved in TADA Act cases in Padamnaba assassination and Pattinakathan shot-out. The escort party and the accused stopped near Bismillah Hotel on G.S.T. Road, near Mamandur to take their dinner. After that, the party returned with the accused to the Police van parked opposite to the road. At that time (at about 10.30 P.M.), 4 persons came in a white Ambassador car and opened fire indiscriminately. PC 1260 Mohan sustained bullet injuries, fell down and died. HC 5919 Chakravarthi, Driver

H.C. also sustained injuries. Accused Kiruban, Ravi and Chandran escaped from the custody of the Policemen, joined the party who came for the rescue in the Ambassador car and left. Victor could not escape."

Annexures XXVI and XXVII are the charge sheets registered against shannughavel @ Maistry for various activities of his for which case CrI. No. 1/93 under Section 3(3) of the TADA Act, 1987 was registered on 18-2-1993 in Crime Branch, CID Headquarters. The case is stated to be pending trial before Designated Court II, Madras.

In para 16 of the Affidavit four different instances of long range plans of LTTE formulated for spreading its operations in Tamil Nadu have been narrated which are alleged to be aiming at to design and carry out unlawful activities to the detriment of sovereignty of India. Instances pertain to the period 1992-93, details of which need not be stated herein except by noticing the fact that there was a plan to attack and destroy Indian Naval Vessels as disclosed in the confessional statement of account Shanmughavel @ Maistry. LTTE cadres such as Satguneswaran, Chinna Korea and Thangavadivelu were sent to Tamil Nadu by the Intelligence Wing of LTTE from 1991—1993 for the purpose of carrying out their plan. Similarly paras 17 & 18 of the affidavit make reference to various cases stated to have been registered against individuals as regards the design and plans for transmitting huge sums of money through unknown persons to Sri Lankan Tamils in Tamil Nadu for being sent to LTTE cadres under treatment for their clandestine activities. For each instances detected, cases are stated to have been registered in various police stations and the investigation revealed long range plans of disruptive activities in furtherance of the aims of LTTE.

Affidavit also makes reference to the LTTE having taken the issue of "suicide" by Kittu to the United Nations General Assembly accusing the Indian Government of having killed him. It is stated that Lawrence Thilagar, Central Committee Member of LTTE based in Paris on 4-2-1993 in a petition to the United Nations referred to the interception of LTTE ship m.v. YAHATA and the death of LTTE leader Kittu and others on board. Finger in the said petition is stated to be pointing towards the Indian Police and Indian Security Agencies. Various other materials narrated and incorporated in the affidavit filed, on behalf of the State of Tamil Nadu and the Central Government need not be mentioned here. In nutshell the emphasis is that the entire material collected is a direct evidence of the activities carried out by LTTE with its supporters with a view to disrupt the sovereignty and territorial integrity of India.

I have gone through each document as also the contents of the affidavit and considered the submissions made by the learned counsel appearing for the Central Government and the State of Tamil Nadu. In the earlier part it was noticed that on publication of notice to show cause, none appeared on behalf of LTTE except one Velupillai Prabhakaran sent a communication to this Tribunal, which is dated

24-7-1994. This Prabhakaran is none other than the Chief of LTTE who has not chosen to put in appearance before this Tribunal.

An association may be declared by the Central Government to be an 'unlawful association' within the meaning of word, as defined in clause (g) of Section 2 of the Act if the Central Government is of the opinion that such association has become an unlawful association. 'Unlawful association' has been defined in Clause (g) of Section 2 to mean any association (i) which has for its object any unlawful activity, or which encourages or aids persons to undertake any unlawful activity, or of which the members undertake such activity; or (ii) which has for its object any activity which is punishable under Section 153A or Section 153B of the Indian Penal Code, 1860 (45 of 1860), or which encourages or aids persons to undertake any such activity, or of which the members undertake any such activity. The Association if it is having for its object any unlawful activity or encourages or aids people to undertake any unlawful activity or of which the members undertake such unlawful activity, the same would be covered by the definition of 'unlawful association'. 'Unlawful activity' has also been defined in clause (f) of Section 2 as :

"(f) 'unlawful activity', in relation to an individual or association, means any action taken by such individual or association (whether by committing an act or by words, either spoken or written, or by signs or by visible representation or otherwise)—

- (i) which is intended, or supports any claim, to bring about, on any ground whatsoever, the cession of a part of the territory of India or the secession of a part of the territory of India from the Union, or which incites any individuals or group of individuals to bring about such cession or secession ;
- (ii) which disclaims, questions, disrupts or is intended to disrupt the sovereignty and territorial integrity of India."

Sub-section (2) of Section 3 says that a notification, if issued by the Central Government, forming opinion must specify the grounds on which the same has been issued. The grounds have been so specified

in the notification in question dated 14-5-1994. In the light of the above material it deserves to be seen whether the grounds as specified in the notification are such which fall within the definition of 'unlawful activity' or not.

On a careful consideration of the material which has been noticed in the preceding paragraphs there can be no manner of doubt that LTTE is trying to infiltrate its cadres, supported with sophisticated arms and ammunition in the State of Tamil Nadu and is trying to establish safe houses in Tamil Nadu for providing shelter to its cadre and is also providing moral and material support to secessionist organisations, operating in Tamil Nadu. Disruptive activities are being carried out to malign Government of India with the object of arousing separatist Tamil sentiments. The information which has been placed before the Tribunal, as already noticed above, pertains to two different periods—one prior to the publication of earlier notification dated 14-5-1992 and the other subsequent to the earlier notification and prior to the instant notification published on 14-5-1994. Despite declaration of LTTE to be unlawful association on 14-5-92 activities, termed to be unlawful activities have persisted and there is no manner of doubt that, on the basis of the material which has been brought on record of this Tribunal, which was also before the Central Government, the Central Government was perfectly justified in forming an opinion that LTTE is an association which is an unlawful association and has rightly declared it to be so.

Consequently the reference is answered by holding that there is sufficient cause for declaring LTTE to be an unlawful association within the meaning of the word as defined in the Act. The declaration made in the notification dated 14-5-1994 is confirmed.

Sd-

November 11, 1994.

(DEVINDER GUPTA, J.)
Tribunal"

New Delhi.

Dated, the 28th November, 1994

[No. 1-11034/9/94-ISDI (A)]

C. PHUNSOG, Jr. Secy.

